IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.A. No.1309 of 2006 and
M.P.Nos.1 to 3 of 2006

K.Poonkothay .. Appellant

-vs-

1.The Election Commissioner,
Coimbatore District.

2.The Returning Officer,
Panchayat Union Counsel,
Ward No.18, Avinasi Taluk,
Coimbatore District.

3.The District Collector,
Coimbatore District,
Coimbatore. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order made in W.P.No.37775 of 2006 dated 05.10.2006.
WP 37775/06:- Petition presented to this Court under Article 226 of the Constitution of India to issue a writ of Mandamus calling for the records relating to the impugned order of the second respondent in Na Ka No. 1533/2006/E.1 dated 28.09.2006 and quash the same.

WEB COPY

For Appellant : Mr.K.Chandrasekaran,
for Mr.B.Natarajan

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 05.10.2006, in and by which the

https://hcservices.ecourts.gov.in/hcservices/

learned Judge refused to interfere with the order of the Returning Officer, Panchayat Union, Ward No.18, Avinasi Taluk, Coimbatore District and dismissed the writ petition at the admission stage.

2. Mr.K.Chandrasekaran, learned counsel appearing for the appellant, by drawing our attention to Sec.259-1(c) of the Tamil Nadu Panchayats Act, 1994 submitted that the remedy provided therein is only a post Election remedy and that cannot cure the defect committed by the Returning Officer. He also contended that the appellant/petitioner is not seeking stay of Election process in any way.

3. On going through the relevant provisions and the order of the learned single Judge, we are unable to accept the said contention. It is not in dispute that Sections 258 and 259 of the said Act provided the remedy to the unsuccessful/affected persons by filing an Election Petition before the appropriate forum. It is also not in dispute that once the Election process is started by way of notification by the Election Commission, the same cannot be stalled by way of a petition even before this Court. No doubt, though certain exceptions are there, on going through the grievance expressed by the appellant/petitioner and the reasoning of the learned single Judge, we are of the view that the case on hand is not an exceptional case warranting interference by this Court, exercising extraordinary jurisdiction under Article 226 of the Constitution of India. On the other hand, we are in entire agreement with the view expressed by the learned single Judge since the appellant has the remedy to vindicate his grievance even after the Election. Accordingly, we do not find any ground for entertaining the above appeal and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1.The Election Commissioner,
Coimbatore District.

2.The Returning Officer,
Panchayat Union Counsel,
Ward No.18, Avinasi Taluk,
Coimbatore District.

3.The District Collector,
Coimbatore District,
Coimbatore.

AKM(CO)
NM(18.10.2006)

W.A.No.1309 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/